

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

15157 PLII

Mr. Aiken

[Protest of Bid Rejection as Untimely]

FILE: B-200538

DATE: October 14, 1980

MATTER OF: P.O.B., Inc.

DIGEST:

1. Because the bidder bears the responsibility for delivering bid to the proper place at the proper time, bid which was delivered to mail room instead of room specified in the solicitation and which subsequently arrived at designated location after time set for bid opening was correctly considered late.
2. Bid sent via Federal Express, a common carrier, was not "mailed" and therefore rule allowing acceptance of mailed late bid when Government mishandling is involved is not applicable.

P.O.B., Inc. [protests the rejection of its bid as untimely by the General Services Administration] under invitation for bids (IFB) 6PR-W-J0780-B3-F. P.O.B. claims that [its bid was delivered in timely fashion and that, assuming, arguendo, that the bid was late. it should be considered because this late receipt was due solely to agency mishandling.] We deny the protest.

P.O.B. alleges that its bid was timely because [it was delivered to the proper address one hour before bids were due, leaving sufficient time for the bid to be properly handled.] We have been informed, however, that although [the solicitation expressly required all bids to be delivered to the Business Service Center] by 1:00 p.m., [Federal Express delivered P.O.B.'s bid to the building mailroom. The mailroom did not forward this bid until after the 1:00 p.m. deadline.]

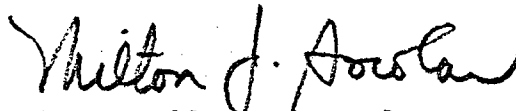
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[The bidder bears the responsibility for delivering its bid to the proper place by the proper time, and it is apparent that P.O.B. did not meet that responsibility here.] Exceptions to the above rule are permitted only as expressly provided for in the invitation. Federal Contracting Corp.; Taylor Air Systems, Inc., 54 Comp. Gen. 304 (1974), 74-2 CPD 229. Although P.O.B. claims that its bid should be considered because the solicitation states that a late bid will be considered "[i]f it is sent by mail and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation," shipment by Federal Express, a common carrier, is not the same as sending a bid by mail. Daymar, Inc., B-188701, August 8, 1977, 77-2 CPD 88, and cases cited therein.

We note that [the protester alleges that the contracting officer suggested the use of Federal Express, in this case in an oral conversation initiated by the protester a few days before opening. This does not alter the fact that the bid arrived late, and cannot be accepted. The use of a commercial carrier in lieu of any other method of delivery was still the choice of the protester and, once that choice was made, the applicable rules must be followed.

This protest is summarily denied.]



For The Comptroller General
of the United States